

Exhibit U

From: Miller, Benjamin M. <benjamin.miller@davispolk.com>
Sent: Tuesday, June 18, 2024 5:07 PM
To: Kehl, Philip; Thomson, Daniel J.
Cc: Toscano, David B.; Duggan, Charles S.; PaulHarper-contct; Kane, Patrick M.; Placey, Sean; Katherine Moerke; McClammy, James I.; Mishkin, Paul S.; Maltas, Allyson; Turner, Michael; Adam, Karna; Gillen, Elizabeth A.; Baker, Joseph; Carson, Wesley; Sud, Akhil
Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Highly Confidential – Outside Counsel Eyes Only

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Kehl, Philip <pkehl@ftc.gov>

Sent: Tuesday, June 18, 2024 3:30 PM

To: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil <akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Ben –

We are still waiting to hear back from you on your response to our proposals, many of which we explained on a call with you on June 11, one week ago.

Please provide us with some times you are available on Thursday to discuss your response. And please send us that response, to the extent you intend to respond in writing, by tomorrow.

Thank you.

Best,
Phil

From: Miller, Benjamin M. <benjamin.miller@davispolk.com>

Sent: Friday, June 14, 2024 1:46 PM

To: Kehl, Philip <pkehl@ftc.gov>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil <akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Phil,

That reading of the Court's statement makes sense to us and we are fine proceeding without a motion.

Thanks,
Ben

Benjamin M. Miller

Davis Polk & Wardwell LLP

+1 202 962 7133 office

+1 646 659 5875 mobile

benjamin.miller@davispolk.com

From: Kehl, Philip <pkehl@ftc.gov>

Sent: Friday, June 14, 2024 1:28 PM

To: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>;

PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean

<SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I.

<james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson

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<egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil

<akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Ben –

Thanks for your response and the separate call to discuss. We will agree to a one-week extension of the motion to compel deadline (to June 25) to allow us to continue our discussions with the goal of eliminating or narrowing the issues that need to be submitted to the Court. Based on the Court's statements at the May 23, 2024 hearing regarding coordination (particularly at page 114), we do not believe that a motion for an extension of the deadline to June 25 would be necessary. Please confirm today that you agree that no extension motion is necessary and that the deadline is extended to June 25.

We look forward to hearing back from you on the other items promptly, and think a response on all open items by Monday is reasonable and appropriate given the timing.

Best,
Phil

From: Miller, Benjamin M. <benjamin.miller@davispolk.com>

Sent: Friday, June 14, 2024 12:01 PM

To: Kehl, Philip <pkehl@ftc.gov>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>;

PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean

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<akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Phil,

Attached are Syngenta's edits to your proposed search terms, in track changes. As before, we have focused on ensuring there is a clear nexus between the search strings and the RFP (including that connectors be appropriately limited).

We are considering the FTC's positions and preparing a response to address all issues. (For the avoidance of doubt, we do not agree with your data proposal below.) As to the Plaintiffs' June 18 motion to compel deadline, we believe that further discussion between the parties can eliminate or narrow the issues that need to be submitted to the court. So that we can continue that discussion and potentially avoid the need for Plaintiffs to brief issues that may ultimately be resolved by agreement, Syngenta would suggest that the parties file a joint consent motion seeking from the Court a 1-week extension of Plaintiffs' June 18 motion to compel deadline as to Syngenta. Is that something Plaintiffs would be interested in?

Thanks,
Ben

Benjamin M. Miller

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+1 202 962 7133 office
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benjamin.miller@davispolk.com

From: Kehl, Philip <pkehl@ftc.gov>

Sent: Friday, June 14, 2024 10:41 AM

To: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil <akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Ben,

With the June 18 motion to compel deadline approaching, I'm writing to see if you had a response to the items we discussed on Tuesday (and the items I raised yesterday), or if you would like to discuss further.

Thank you.

Phil

From: Kehl, Philip

Sent: Thursday, June 13, 2024 11:03 AM

To: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil <akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Ben,

I'm writing in reference to the products covered by the data RFPs and the search terms.

We propose the following limitation to the scope of the products covered by Syngenta's data response to the RFP's seeking data compiled by Syngenta related to Crop Protection Products (RFPs No. 27-29 and 31). We can agree to limit the products included in the response to these RFPs to all Crop Protection Products containing active ingredients, or the active ingredients themselves, marketed as herbicides or fungicides, plus all Crop Protection Products containing abamectin or lambda cyhalothrin (and the active ingredients themselves). This proposal is contingent on Syngenta

agreeing to not use data excluded by the above in its own analyses or advocacy. For the avoidance of doubt, this proposal does not apply to Syngenta's response to RFP No. 26 (requesting datasets compiled by any person other than Syngenta); the scope and timeframe of the response to RFP No. 26 should be governed by the terms of that RFP as written.

Beyond this proposed scope limitation, we cannot unilaterally and arbitrarily limit the data we seek for AIs other than mesotrione, metolachlor, and azoxystrobin for several reasons: (1) Our experts, including damages experts, will need to engage in cross-AI benchmarking analysis, and having fewer than all AIs risks being unable to identify the optimal benchmark and/or being subject to criticism for cherry-picking; (2) Syngenta has suggested that it will not rule out accessing and using its data on all AIs in performing similar expert work; (3) Syngenta has suggested that the three Relevant AIs are properly analyzed in larger, as-yet undefined markets containing multiple AIs.

We are willing (a) to substantially reduce the date ranges for RFPs 27-29 and 31 – we propose 2002 to present for metolachlor, abamectin, and lambda, 2012 to present for all other AIs, and (b) to work with Syngenta to see if the scope of AIs covered can be further limited in a bilateral, principled manner that addresses the concerns described above.

Additionally, attached please find our edits in response on the search terms.

We look forward to hearing back from you on these items, and on the other proposals we made on Tuesday.

Thanks,
Phil

From: Miller, Benjamin M. <benjamin.miller@davispolk.com>
Sent: Monday, June 10, 2024 7:39 PM
To: Kehl, Philip <pkehl@ftc.gov>; Thomson, Daniel J. <daniel.thomson@davispolk.com>
Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil <akhil.sud@davispolk.com>
Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Phil,

See attached for Syngenta's edits to the Request Terms you sent below. We have included several comments to explain certain of our edits.

Thanks,
Ben

Benjamin M. Miller

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benjamin.miller@davispolk.com

From: Kehl, Philip <pkehl@ftc.gov>

Sent: Wednesday, June 5, 2024 5:26 PM

To: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>;

PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean

<SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I.

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<amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A.

<egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil

<akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Ben –

Thanks for committing to respond to my letter this week. As mentioned in that letter, attached please find Plaintiffs' proposed additions/modifications to Syngenta's proposed search terms. We've endeavored to bold the additional or modified terms in our proposal.

In the interest of scheduling efficiency, it may make sense to get a meet and confer on the calendar for early next week. Are you available June 11 at 3pm?

Thanks,
Phil

From: Miller, Benjamin M. <benjamin.miller@davispolk.com>

Sent: Wednesday, June 5, 2024 3:08 PM

To: Kehl, Philip <pkehl@ftc.gov>; Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>;

PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Placey, Sean

<SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I.

<james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson

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<egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>; Sud, Akhil

<akhil.sud@davispolk.com>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Phil,

We are in receipt of your letter and are discussing the issues with our client. We think it would be more efficient for us to provide you with a response in writing this week, as you stated below, after which we are happy to set up a time to discuss our positions.

Thanks,
Ben

Benjamin M. Miller

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+1 646 659 5875 mobile

benjamin.miller@davispolk.com

From: Kehl, Philip <pkehl@ftc.gov>

Sent: Wednesday, June 5, 2024 8:53 AM

To: Thomson, Daniel J. <daniel.thomson@davispolk.com>; Miller, Benjamin M. <benjamin.miller@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Cheung, Chui-Lai <chui-lai.cheung@davispolk.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Ben et al. –

We understood that you would be in a position to respond further on certain issues, including your proposal on the time frame, by early this week. Are you available to meet and confer on that tomorrow? Could you please propose some times that work for you?

Thank you.

Best,
Phil

From: Kehl, Philip

Sent: Tuesday, June 4, 2024 10:33 AM

To: Thomson, Daniel J. <daniel.thomson@davispolk.com>; Miller, Benjamin M. <benjamin.miller@davispolk.com>

Cc: Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Cheung, Chui-Lai <chui-lai.cheung@davispolk.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Ben, et al. –

Please see the attached letter. Please let us know your responses to the items raised in this letter by the end of this week.

Thank you.

Best,
Phil

From: Thomson, Daniel J. <daniel.thomson@davispolk.com>

Sent: Thursday, May 30, 2024 10:21 AM

To: Kehl, Philip <pkehl@ftc.gov>

Cc: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Cheung, Chui-Lai <chui-lai.cheung@davispolk.com>; Placey, Sean

<SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>

Subject: RE: FTC et al. v. Syngenta et al., No. 1:22-cv-00828 (MDNC) (RFPs to Syngenta)

Phil,

We could speak from 11-11:30am ET tomorrow. We have not had a chance yet to vet some of the issues discussed yesterday with our client, though, and so it would likely be more productive to speak next week, if there are times then that work on your end.

Best,
Dan

From: Kehl, Philip <pkehl@ftc.gov>

Sent: Thursday, May 30, 2024 9:16 AM

To: Thomson, Daniel J. <daniel.thomson@davispolk.com>

Cc: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Cheung, Chui-Lai <chui-lai.cheung@davispolk.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>

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Dan,

Would any time between 11:00 am and 3:00 tomorrow work on your end?

Thanks,
Phil

From: Thomson, Daniel J. <daniel.thomson@davispolk.com>

Sent: Wednesday, May 29, 2024 7:57 PM

To: Kehl, Philip <pkehl@ftc.gov>

Cc: Miller, Benjamin M. <benjamin.miller@davispolk.com>; Toscano, David B. <david.toscano@davispolk.com>; Duggan, Charles S. <charles.duggan@davispolk.com>; PaulHarper-contct <Paul.Harper@ilag.gov>; Kane, Patrick M. <PKane@foxrothschild.com>; Cheung, Chui-Lai <chui-lai.cheung@davispolk.com>; Placey, Sean <SPlacey@foxrothschild.com>; Katherine Moerke <Katherine.Moerke@ag.state.mn.us>; McClammy, James I. <james.mcclammy@davispolk.com>; Mishkin, Paul S. <paul.mishkin@davispolk.com>; Maltas, Allyson <amaltas@ftc.gov>; Turner, Michael <mturner@ftc.gov>; Adam, Karna <kadam@ftc.gov>; Gillen, Elizabeth A. <egillen@ftc.gov>; Baker, Joseph <jbaker1@ftc.gov>; Carson, Wesley <wcarson@ftc.gov>

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Phil,

Those times tomorrow and on Friday don't work for our calendars. Are there times Monday that work on your end, or we have more availability on Tuesday?

Thanks,
Dan

On May 29, 2024, at 3:06 PM, Kehl, Philip <pkehl@ftc.gov> wrote:

Ben and Team –

Thanks for the productive call this afternoon. Are you available to continue our meet and confer tomorrow (5/30) at 3:30 pm eastern or Friday (5/31) at 3:00 pm eastern?

If not, could you please propose some alternative times?

Thank you.

Best,
Phil

Philip Kehl, Attorney
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